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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4376/2024 & CM APPL. 17928/2024**

MOSNA

..... Petitioner

Through: Mr. Himanshu Pathak and Mr.
Samman Kumar, Advocates.

versus

**GOVERNMENT NCT OF DELHI THROUGH SECRETARY CUM
COMMISSIONER TRANSPORT DEPARTMENT & ANR.**

..... Respondents

Through: Mr. Tushar Sanu and Mr. Sahaj Karan
Singh, Advocates.

+ **W.P.(C) 4483/2024 & CM APPL. 18360/2024**

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..... Petitioner

Through: Mr. Himanshu Pathak and Mr.
Samman Kumar, Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ANR. Respondents

Through: Mr. Tushar Sanu and Mr. Sahaj Karan
Singh, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

30.04.2024

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1. W.P.(C) 4376/2024 has been filed with the following prayers:

“a. Issue a writ of mandamus or any other appropriate



writ, order or direction thereby directing respondents to ensure the parking of designated buses at counter no. 135 to 140 at Platform No. D, Swami Vivekanand ISBT, Anand Vihar.

b. issue a writ of mandamus or any other appropriate writ, order or direction to respondent no.2 to forgo the license fee of the petitioner's shop for the period January,2024 till the respondents completely resumed the parking of designated buses at counter no. 135 to 140 at Platform No. D, Swami Vivekanand ISBT, Anand Vihar.

c. issue a writ of mandamus or any other appropriate writ, order or direction to extend the period of petitioner's shop for further period in lieu of wasted period since January, 2024 till the respondents completely resumed the parking of designated buses at counter no. 135 to 140 at Platform No. D, Swami Vivekanand ISBT, Anand Vihar.

d. issue a writ of mandamus or any other appropriate writ, order or directions directing respondents to explore measures and to frame comprehensive policy to mitigate the suffering of petitioner by relaxing the licence fee due to withdrawal of BSIII & BS-IV Buses.

e. pass any other or further order(s) which this Hon'ble Court may deem just and proper in the facts and circumstances of the case in favour of petitioner.”

2. W.P.(C) 4483/2024 has been filed with the following prayers:

“a. Issue a writ of mandamus or any other appropriate writ, order or direction thereby directing respondents to ensure the parking of designated buses at counter no. 135 to 140 at Platform No. D, Swami Vivekanand ISBT, Anand Vihar.



b. issue a writ of mandamus or any other appropriate writ, order or direction to respondent no.2 to forgo the license fee of the petitioner's shop for the period January,2024 till the respondents completely resumed the parking of designated buses at counter no. 135 to 140 at Platform No. D, Swami Vivekanand ISBT, Anand Vihar.

c. issue a writ of mandamus or any other appropriate writ, order or direction to extend the period of petitioner's shop for further period in lieu of wasted period since January, 2024 till the respondents completely resumed the parking of designated buses at counter no. 135 to 140 at Platform No. D, Swami Vivekanand ISBT, Anand Vihar.

d. issue a writ of mandamus or any other appropriate writ, order or directions directing respondents to explore measures and to frame comprehensive policy to mitigate the suffering of petitioner by relaxing the licence fee due to withdrawal of BSIII & BS-IV Buses.

e. pass any other or further order(s) which this Hon'ble Court may deem just and proper in the facts and circumstances of the case in favour of petitioner.”

3. Learned Counsel appearing for the Respondents, at the outset, states that in view an alternate efficacious remedy available to the Petitioners, this Court shall not entertain the present writ petition. He draws attention of this Court to Clause H of the Agreement dated 13.12.2023. The said Clause H reads as under:

“H-ARBITRATION

Any Dispute arising out of, or In connection with this Agreement, failing amicable settlement, shall be finally settled by binding arbitration under the Arbitration



and Conciliation Act, 1996. This place of arbitration shall be Delhi/New Delhi. The language used in the arbitration proceedings shall be English. The procedure to be followed for the arbitration, including the appointment of arbitrator/arbitral tribunal, the rules of evidence which are to apply shall be in accordance with the Arbitration and Conciliation Act, 1996. The dispute if arises, will be referred to the Sole Arbitrator, appointed by the Managing Director/Chairman, DTIDC. Any decision or award resulting from arbitration shall be final and binding upon the parties. The parties hereto hereby waive, to the extent permitted by law, any right to appeal or to review such awards by any court or tribunal. The parties hereto agree that the arbitral award may be enforced against the parties to the arbitration proceeding or their assets wherever they may be found and that a judgment upon the arbitral award may be entered in any court having jurisdiction thereof. The fees and expenses of the arbitrator and all other expenses of the arbitration shall be initially borne and paid by respective parties subject to determination by the arbitrator.”

4. Confronted with the aforesaid Clause, the learned Counsel appearing for the Petitioners seeks permission to withdraw the present writ petitions with liberty to take such remedies as may be available to the Petitioners in accordance with law.
5. Permission and liberty, as sought for, are granted.
6. All rights and contentions of the Petitioners, including the rights and contentions raised in the instant writ petition will be available to the Petitioners in case the Petitioners choose to invoke the arbitration clause.
7. The writ petitions are disposed of as withdrawn, along with pending application(s), if any. It is made clear that this Court has not made any



observations on the merits of the case.

SUBRAMONIUM PRASAD, J

APRIL 30, 2024

S. Zakir